

1 make the signal audibly disappear from the speaker, that you
2 assumed that that also affected the receiver -- the receiver's
3 capability of detecting whether there was a signal on the air?

4 A At this point, I do not recall doing anything other
5 than that. I don't recall examining any additional outputs
6 from the receiver. So, yes.

7 Q When you questioned Mr. Stone about the paging
8 customers, is it possible -- well, let me ask you this. You
9 are aware, are you not, that Capitol is a common carrier
10 paging company as well as a private carrier?

11 A Yes, sir.

12 Q And are you aware that Capitol has what I will call
13 a large base of subscribers on its common carrier system?

14 A I would imagine he's got several customers on the
15 common carrier system. How many, I don't know.

16 Q Was it your understanding at the time that his
17 common carrier operation was considerably larger than his
18 private carrier system?

19 A Yes.

20 Q Is it possible that Mr. Stone thought you were
21 asking him about paging customers generally as opposed to
22 specifically private carrier paging customers?

23 A We intended to make it clear, right from the
24 beginning, that we were only interested in the private carrier
25 system. If he misunderstood, I don't know.

1 Q Well, I certainly understand that you, you know,
2 intended to make your -- the purpose of your visit clear. But
3 I guess my question really, in thinking back, the way you
4 phrased your question, is it possible that he did not
5 understand that your question was so limited?

6 MS. FOELAK: Objection. He can't have any knowledge
7 of Mr. Stone's state of mind.

8 MR. HARDMAN: But, Your Honor, he does -- he may
9 have a recollection of how he phrased the question.

10 JUDGE CHACHKIN: Well, you could ask him that. I'll
11 sustain the objection to the question as it leads to Mr.
12 Stone's state of mind. But you can develop with him what was
13 the nature of the question that he asked, how he put the
14 question.

15 BY MR. HARDMAN:

16 Q Do you remember exactly how you phrased the
17 question, Mr. Stone?

18 A I do not remember the specific wording.

19 Q In your report, that's PRB Exhibit 3, Page Five,
20 there's a reference to storm damage to some of Capitol's
21 common carrier equipment. Do you see that reference there?
22 This is Item Number Six at maybe a third of the way down. Do
23 you see that?

24 A I see that.

25 Q Who told you that equipment was taken from the

1 private carrier paging system for that purpose?

2 A At this point, I do not recall. Some of Capitol's
3 employees. My best guess, and it's a guess, I have --

4 Q I'm sorry. I --

5 MR. JOYCE: You're interrupting his answer. I
6 object.

7 JUDGE CHACHKIN: Well, if he said it's a guess, then
8 I'm going to sustain the objection, if it's merely a guess.
9 That's not probative of anything, what his guess is.

10 BY MR. HARDMAN:

11 Q You don't remember then. Is that right?

12 A I do not recall.

13 Q Going on down on the report, the next to the last
14 paragraph, you state, in part there, that you believe Capitol
15 violated Section 90.403(e) of the rules which requires
16 stations to take reasonable steps, including monitoring, to
17 avoid causing harmful interference. Do you see that, sir?

18 A Yes, sir.

19 Q Isn't it true that your conclusion about the
20 reasonableness of the steps that Capitol took was heavily
21 influenced by your assumption that the variable squelch
22 control affected the ability of the monitor/receiver to detect
23 RAM's signal?

24 A That conclusion is based on a summation of the fact
25 that Capitol did transmit, on several occasions, while RAM's

1 transmitter was active. The fact that -- yes, apparently the
2 busy monitor could be adjusted from the front panel. The --
3 what I deemed excessive testing and unnecessary consumption of
4 available air time, conclusions based on all of that.

5 Q All right. Well, as far as the transmitting while
6 RAM was on the air, I believe you also acknowledged, have you
7 not, that might've been inadvertent on Capitol's part?

8 A I cannot explain why at this point, but it is not --
9 it's not a case where the two transmitters came on the air at
10 the same time. That would -- something of that nature would
11 be inadvertent. In the cases that we observed, RAM's
12 transmitter is on the air when Capitol come on -- came on and
13 we just cannot explain why. I'm not sure that I would be
14 willing to call it inadvertent at this point. But I cannot
15 explain how it happened.

16 Q Did RAM ever suggest an explanation to you that you
17 recall to why that might happen?

18 A Other than the broad allegation of deliberate
19 interference and not using busy monitors and stuff. There was
20 some question during the inspection as to the adequacy of the
21 antenna associated with the busy monitor. At this point, it's
22 really vague, but there was some question as to the adequacy.
23 At one point, there was some concern that perhaps the antenna
24 had fallen off the roof or something of that nature.

25 Q Do you make any reference to that in any of your

1 reports?

2 A I don't -- I don't think so.

3 Q Well, on that score, I would ask you to refer to PRB
4 Exhibit Four, Page Three, the second paragraph, second
5 sentence in that and in that report, you state that, "We can
6 accept Capitol's claim that they did not knowingly transmit
7 while RAM's transmitters were activated."

8 MR. JOYCE: Your Honor, if Mr. Hardman is going to
9 use Exhibit Four which was earlier ruled as not admissable for
10 purposes of impeaching the witness, then I will require him to
11 read the entire document into the record.

12 MR. HARDMAN: I'll be happy to read the entire
13 passage --

14 MR. JOYCE: He's certainly not going to read it out
15 of context for purposes of impeaching this witness.

16 MR. HARDMAN: I'll be happy to read the entire
17 passage that's related to that point.

18 MR. JOYCE: That's unacceptable. That's entirely
19 unacceptable and you know that.

20 MR. HARDMAN: Impeaching the testimony on that one
21 point does not invoke the whole document on unrelated matters.

22 MR. JOYCE: He cannot selectively read parts of a
23 document that earlier we were not allowed to admit into the
24 record. That's unacceptable.

25 JUDGE CHACHKIN: If he's using it for purposes of

1 impeachment, he can use any document prepared by the witness.

2 MR. JOYCE: So long as he -- so long as the entire
3 document is in the record.

4 JUDGE CHACHKIN: That's not true. The entire
5 document can contain all kinds of things. But if he wants to
6 use, for purposes of impeachment, certain statements made by
7 the witness, he's certainly free to use it. If you have a
8 legitimate purpose of using other parts of the document,
9 referring to other parts of the document, you certainly can,
10 too.

11 MR. JOYCE: But these are not statements of the
12 witness, Your Honor. You earlier ruled that this is not
13 admissable as a statement of the witness.

14 MS. FOELAK: Your Honor, perhaps the witness could
15 read it silently to himself and be questioned by -- whatever
16 question Mr. Hardman wants to ask.

17 JUDGE CHACHKIN: You asked him -- what paragraph did
18 you ask him about?

19 MR. HARDMAN: It's the second full paragraph on Page
20 Three of PRB --

21 JUDGE CHACHKIN: On Page Three.

22 MR. HARDMAN: -- Exhibit 4. It's the second
23 sentence in that paragraph.

24 JUDGE CHACHKIN: The third paragraph?

25 MR. HARDMAN: The second.

1 JUDGE CHACHKIN: Oh, the second paragraph.

2 MR. JOYCE: This is not a deposition, Your Honor.

3 It's not a declaration. Mr. Hardman argued bosipherously
4 (phonetic) that this is not the witness' testimony and it has
5 not been admitted into the record as such.

6 JUDGE CHACHKIN: Who prepared this report or this
7 memorandum?

8 MR. HARDMAN: It was represented as having been
9 prepared by Mr. Walker.

10 JUDGE CHACHKIN: And this was Mr. Walker's
11 conclusion.

12 MR. JOYCE: And I argued this morning, Your Honor,
13 that this would be admissable because it is not hearsay, but I
14 was in the minority opinion on that point. Now, if Mr.
15 Hardman wants to withdraw his earlier objection to the
16 admissibility of this exhibit, I have no objection whatsoever
17 to his using one comma, a period, or any part of this document
18 to impeach this witness.

19 JUDGE CHACHKIN: The witness could be impeached with
20 any document. He doesn't have to agree with you on the entire
21 document which refers to many other subjects. If you have
22 something in here which supports the witness' testimony, you
23 can refer to it.

24 MR. JOYCE: This is not the witness' testimony, Your
25 Honor. Mr. Hardman argued this morning that is --

1 JUDGE CHACHKIN: It's still the witness' statement
2 which he made. You certainly can use a prior statement of a
3 witness for purposes of impeachment and that's what you use
4 for impeachment.

5 MR. JOYCE: This is not the --

6 JUDGE CHACHKIN: The witness acknowledged this was
7 his statement which he made in the past. Now, he's trying to
8 use it, a past statement, to impeach a statement which is
9 contained in his report, his earlier report. It's perfectly
10 proper.

11 MR. JOYCE: Then I must ask -- then I must ask Your
12 Honor to revisit the question of the admissibility of this
13 document.

14 JUDGE CHACHKIN: It has nothing to do with the
15 admissibility of the exhibit. A person could submit a 15-page
16 statement on many, many different points, and you want to
17 impeach him, you don't have to put in the entire exhibit
18 unrelated to the question you want to impeach him on. You
19 refer to a statement relating to that specific subject to
20 impeach him.

21 MR. JOYCE: Then I don't understand why this is
22 inadmissible as hearsay if it's his prior testimony.

23 JUDGE CHACHKIN: It's still hearsay, but you
24 certainly can impeach a witness' statement. The fact it's
25 hearsay has nothing to do with impeachment. In other words,

1 it can't come in for the truth of the matters, but certainly
2 someone can use it to impeach an earlier -- a statement if
3 it's inconsistent. If there's a prior inconsistent statement,
4 that's the whole purpose of impeachment.

5 MR. JOYCE: Then it should be admissable --

6 JUDGE CHACHKIN: It has nothing to do with hearsay.
7 Using a prior, inconsistent statement for purposes of
8 impeachment has nothing to do with the admission of an exhibit
9 for the truth of the matters.

10 MS. FOELAK: Your Honor, our objection is to reading
11 it into the record for the truth of the matters stated
12 therein. If the witness could read it silently and be
13 questioned --

14 JUDGE CHACHKIN: Or it could be used as an
15 admission, also, if it's an admission, if he wants it to be
16 used for that purposes. I'll permit Mr. Hardman to continue.
17 Go ahead, sir. Do you want -- do you want to ask the witness?
18 Go ahead with your question, sir, on that second paragraph.

19 BY MR. HARDMAN:

20 Q Well, my question was isn't it true that in this
21 document, you acknowledged that you would accept the
22 proposition that Capitol did not knowingly transmit while
23 RAM's transmitters were activated. Isn't that true?

24 A That's true, but the sentence does continue to
25 indicate that I believe that they did not take adequate steps.

1 Q That's right. And it goes on to say you also
2 believe they didn't take adequate steps and we were talking
3 about that a moment ago, what the foundation for that --those
4 adequate steps were and one of them was your analysis of their
5 variable control on the busy monitor. Isn't that correct?

6 A We never determined why they were able to transmit
7 during the time when RAM was transmitting. We were not able
8 to determine whether it was the control on the receiver or the
9 antenna fell off the building. We don't know. We were never
10 able to determine. During the inspection, it appeared, as
11 best I remember at this point, that that busy monitor
12 functioned.

13 Q I understand that as you so testified and we
14 appreciate that. All I'm doing here, and I think I'm about
15 done with this, is that your analysis at the time as to
16 whether RAM was taking -- or I'm sorry, as to whether Capitol
17 was taking reasonable steps was influenced by your analysis of
18 different components including such thing as the variable
19 control on the monitor receiver. Isn't that true?

20 A True.

21 Q Now, could we go to PRB Exhibit 5? Did I understand
22 you correctly, you think that Mr. Harrison wrote this list out
23 on Page One?

24 A I believe Mr. Harrison wrote this. It would've been
25 appropriate that Mr. Harrison prepared it. I don't

1 specifically remember the details, but I believe this was
2 prepared at the Huntington office in the absence of all of the
3 Huntington staff except for Mr. Harrison.

4 JUDGE CHACHKIN: Why don't we take a ten-minute
5 break at this time?

6 (Off the record 3:02 p.m.)

7 (On the record 3:12 p.m.)

8 JUDGE CHACHKIN: Let's go back on the record. Mr.
9 Hardman?

10 BY MR. HARDMAN:

11 Q I believe we had just turned to PRB Exhibit Number 5
12 and had established that, to the best of your knowledge, this
13 was prepared by Mr. Harrison at the Huntington office.

14 A Correct.

15 Q And was that done actually on the 15th of August?

16 A On the 15th, after the Huntington office was closed.
17 We went back into -- we went into the Huntington office and
18 this would've been prepared at that time from records that Mr.
19 Harrison had access to.

20 Q Do you know what records -- did he do it in your
21 presence?

22 A It was in my presence, yes, but I -- I don't know.

23 Q Do you recall if he looked on the terminal screen?

24 A I believe it was paper records, but again, I can't
25 be sure.

1 Q Well, on Pages Two and Three of that same exhibit,
2 there -- I believe you identified these or these were admitted
3 as documents furnished to you by someone at Capitol.

4 A Someone at Capitol's Charleston office on the
5 morning of the 16th, Friday morning.

6 Q Friday morning?

7 A On Friday morning. The inspection on Thursday. The
8 basic inspection was on Thursday. This would've been the
9 following day.

10 Q What was the sequence of events then that enabled
11 you to get this on the 16th?

12 A We would've stopped by the Charleston office prior
13 to leaving town. My memory here's, again, a little vague, but
14 this -- I believe this was something that we had asked for on
15 the 15th, perhaps late in the day, and we agreed that we could
16 stop by the office Friday morning to pick it up.

17 Q Do you remember who you asked at Capitol for this?

18 A We would've been with Mr. Harrison and Mr. Raymond.
19 So probably Mr. Raymond.

20 Q But you're not sure.

21 A Again, I'm not sure.

22 Q And this was not prepared in your presence, was it?

23 A No, I'm sure it was not.

24 Q And you don't know what records were utilized in
25 preparing this, do you?

1 A No. It would appear -- it would appear that it was
2 some sort of computer record that was searched, but again, I
3 don't know.

4 Q Well, that's an important point that I'd like to
5 explore for a moment. You make that interpretation, do you
6 not, because of the nature of the printing on the document?

7 A Yes, sir.

8 Q Isn't it true that this could've been prepared on a
9 word processing program and prepared manually --

10 A Yes, sir.

11 Q -- and printed out that way?

12 A Yes, sir.

13 MS. FOELAK: Objection. I don't see the relevance
14 of this line of questioning as to whether these are, you know,
15 genuine Capitol documents or --

16 JUDGE CHACHKIN: Well, he didn't ask for a general
17 Capitol document. He just questioned the method of
18 preparation. If there is an objection, it's overruled.

19 MR. WALKER: If it makes any difference, it's -- the
20 original was prepared on the green-lined -- or green --
21 alternate green and white lined computer paper.

22 MR. HARDMAN: Do you have the original?

23 MR. WALKER: Yes, sir. I do.

24 JUDGE CHACHKIN: Do you want to see the original?

25 MR. HARDMAN: No. I have no doubt that the witness

1 is telling the truth, that this was a document prepared. But
2 I was just trying to establish if he knew how it was prepared
3 and on -- from what records.

4 BY MR. HARDMAN:

5 Q So you didn't issue any instructions to people at
6 Capitol as to how they would prepare that, did you?

7 A Not that I recall. No, sir.

8 Q You also testified that Mr. Stone changed his story
9 on your questioning about the nature of the tests that were
10 being conducted and I believe you testified that you first
11 said it was a test of the link frequency, is that right, and
12 then changed to range testing?

13 A Testing the -- changed to testing the coverage area
14 of the paging receiver.

15 Q I'm sorry. Would it be fair to say that that would
16 be considered range testing?

17 A Perhaps.

18 Q Now, isn't it true that both could be true, both
19 types of testing could've been involved?

20 A I suppose you could test for both simultaneously.
21 You know, again, as best I recall, there was -- he was not
22 aware of anyone -- was not aware whether or not anyone was in
23 the field for the range testing or coverage testing, which
24 would be necessary.

25 Q Do you know Mr. Stone's relation to Capitol?

1 A I am under the impression that Mr. Stone is the
2 owner.

3 Q Would it be fair to say he's the big boss?

4 A I think that would be fair.

5 Q And do I correctly understand your testimony that in
6 your conversation, Mr. Stone seemed to be a little short on
7 specifics?

8 A Yes.

9 MR. JOYCE: I object to that characterization of the
10 witness' testimony, Your Honor. I don't recall him saying
11 that.

12 JUDGE CHACHKIN: Well, the witness answered the
13 question. Overruled.

14 BY MR. HARDMAN:

15 Q I'm sorry. Did you answer it?

16 A Yes.

17 Q Thank you. In the case of the Capitol system, just
18 to set the record here, there was a base station transmitter
19 in Charleston and a base station transmitter in Huntington.
20 Isn't that right?

21 A That's correct.

22 Q And the connection between Charleston and Huntington
23 was by a UHF link transmitter.

24 A Correct.

25 Q Isn't that correct? Now, suppose that there was a

1 community repeater operating on the same frequency as
2 Capitol's link transmitter and operating in the Huntington
3 area. When the community repeater was transmitting, would
4 that not prevent the receiver, the link receiver in
5 Huntington, from receiving any signals in the -- out of
6 Charleston?

7 A Potentially, but not necessarily.

8 Q Not necessarily, but one of the possible times that
9 that could happen.

10 A Potentially, yes. Yes.

11 Q And in that type of situation, isn't it true that
12 the base station in the Huntington area would not transmit any
13 pages while the community repeater was operating on that UHF
14 frequency?

15 A I'm sorry. Could you repeat it?

16 Q When the community repeater is operating on the UHF
17 link frequency, isn't it true that one of the consequences of
18 that happening is that the VHF base station, the paging base
19 station in Huntington, wouldn't transmit pages?

20 A That should be the case. Again, the link
21 transmitter should not come on the air if there's traffic on
22 that frequency.

23 Q Now, if I'm walking around Huntington with a pager
24 on 152.48, a Capitol pager on 152.48, and I'm not getting any
25 pages, I won't know, will I, whether it's because there's

1 interference on the link component or co-channel transmissions
2 on the base station -- the base frequency 152.48, would I?

3 A With a paging receiver, no, you wouldn't.

4 Q All I would know is I'm not getting my pages.

5 A Correct.

6 Q And by the same token, if I'm on the fringes of
7 Huntington, the edge of reliable coverage, if you will, and I
8 don't get a page, I don't know whether it's because there was
9 never a page transmitted or whether I was out of range or
10 whether there was interference on the link frequency, would I?

11 A Correct.

12 Q Any one of those three events could be sufficient to
13 cause you to miss a page.

14 A Correct.

15 Q So would it not be also the case that if you're
16 having trouble with your system, it would be legitimate to
17 test all three for all three types of faults?

18 A Yes. You do need to test for all three. However,
19 is perhaps once a minute excessive?

20 Q Well, I gather -- you've stated your conclusion that
21 you believe Capitol overdid it and Capitol's not contesting
22 that there was excessive paging. You also testified that on
23 the basis of -- as I recall, on the basis of PRB Exhibit Five,
24 Page One, that there was something like two or three that
25 Capitol -- I'm sorry. That Capitol said, during the

1 inspection, that there were like two or three active customers
2 on the PCP frequency at the time. Isn't that -- or a few.

3 A There were a few. I don't recall the specific
4 numbers.

5 Q I'm not quarreling. Just a limited number. Less
6 than ten?

7 A Probably less than ten.

8 Q Now, if there are that few frequencies on a system,
9 you wouldn't expect very many customer pages to occur at any
10 given time, would you?

11 A No, I wouldn't.

12 Q Going now to your inspection of the tower sites, I
13 believe you testified that the equipment that -- the
14 arrangement there you considered hazardous. Is --

15 A I felt that it was hazardous.

16 Q Well, was this equipment just private carrier paging
17 equipment?

18 A What we were concerned with was private carrier.
19 There may have been other things there.

20 Q Do you recall whether there were -- there was
21 equipment for other stations --

22 A I believe there was.

23 Q And was that -- what kind of condition was that in?

24 A We really were not paying attention to that.

25 Q You didn't --

1 A This hazardous environment was associated with the
2 private carrier paging equipment.

3 Q Well, but I -- I'm sorry. Were you finished?

4 A The exposed wiring, et cetera.

5 Q Was this in sharp contrast to the other equipment up
6 there?

7 A I didn't -- we weren't particularly paying attention
8 to the other installations, but I don't recall seeing anything
9 like that. This is not something that we routinely see. It's
10 in sharp contrast to what we routinely see, yes.

11 Q But what I'm trying to understand whether it's your
12 recollection that the PCP equipment jumped out at you as being
13 in different condition than other equipment at the site?

14 A Yes.

15 Q It did?

16 A Yes.

17 Q On the morse code identification, you testified that
18 the -- you thought the rate that it was being transmitted was
19 about seven words a minute in contrast to the required 20 to
20 25. Is that right?

21 A Correct.

22 Q Can you translate that into the length of time it
23 requires to I.D. a transmitter?

24 A The morse code -- the identifier here is seven
25 characters. A word consists of five characters, so this would

1 take -- seven words, this would take roughly -- this would
2 take about a minute. Wait a minute. I'm sorry --

3 Q How about approximately fifteen seconds?

4 A Okay. I'll accept that.

5 Q And that's in -- would be in contrast if say at 20
6 words a minute --

7 A In turn, would be about five seconds.

8 Q About five seconds. So you're talking about the
9 I.D. taking, you know, roughly ten seconds longer than
10 permitted.

11 A Three times longer.

12 Q Three times longer, but in -- translated into
13 channel occupancy time, ten seconds approximately.

14 A All right.

15 MR. HARDMAN: That is my cross examination.

16 JUDGE CHACHKIN: All right. Should we have redirect
17 now? Perhaps we might before you move on.

18 MR. HARDMAN: That would be fine.

19 MS. FOELAK: Do you have any redirect, Ms. Foelak?

20 MS. FOELAK: Yes. Just a few questions. First, I
21 made reference to Your Honor that harmful interference and
22 inference was defined in Section 2.1. Reference was also made
23 to those topics in 90.173(B) and 90.403(E).

24 REDIRECT EXAMINATION

25 BY MS. FOELAK:

1 Q Mr. Walker, there's been discussion as to what's
2 interference and so on. If while one licensee is transmitting
3 and during its transmissions, another licensee comes up on the
4 same channel, is that interference?

5 A Potential for interference. If the first licensee's
6 message does not get through because of the second
7 transmission --

8 Q If the second licensee comes on the air while the
9 first licensee is still transmitting --

10 A The potential for -- there certainly is a potential
11 for interference. If it prevents the first licensee from
12 getting his message through, yes, it's interference.

13 Q And during the week of August 12th when you were
14 monitoring, did you ever observe instances wherein Capitol's
15 transmissions came on while RAM was already on the air?

16 A Yes.

17 JUDGE CHACHKIN: Is there any rule of the road as to
18 how much time one can have on the air and the sharer, how much
19 time he can have on the air?

20 MR. WALKER: Not that I'm aware of.

21 JUDGE CHACHKIN: Well, how do you -- what if they
22 can't resolve it among themselves, what happens? I mean, what
23 if someone stays on the air? Is there any rule?

24 MR. WALKER: I don't know.

25 MR. HARDMAN: Your Honor, there will be testimony on

1 that issue as part of Capitol's case.

2 JUDGE CHACHKIN: All right.

3 BY MS. FOELAK:

4 Q With reference to the same topic of paging stations,
5 of course, shared channels as we've described, but are there
6 not other land mobile types of licensees, e.g. taxi cabs?

7 A On the same channel?

8 Q On the same channel as each other.

9 A There were several licensees, but I don't recall who
10 they were.

11 Q Well, I was merely trying to avert to a situation
12 which would be much worse than shared paging wherein actual
13 voice messages are going on. Reference was made to intermod.
14 There was some discussion, definition. Was the intermod a
15 factor in anything that you heard during your --

16 A No, it did not appear to be.

17 Q You testified that you inspected Capitol on August
18 15th after you'd been in Charleston for a few days. Had you
19 made contact with Capitol before you got there -- I mean,
20 during the days that you first arrived before you got there?

21 A No, we did not.

22 Q So when you arrived, had they expected you were
23 coming?

24 A To my knowledge, they were not aware that we were
25 there or not expecting an inspection.

1 JUDGE CHACHKIN: That's -- to your knowledge, you
2 don't know for a fact whether or not they were expecting you
3 or not, whether they had obtained knowledge from some other
4 source, you don't know that?

5 MR. WALKER: At this point, I do not recall
6 contacting any other licensees in the area. So again, to the
7 best of my knowledge, they had no way of knowing that we were
8 in town.

9 BY MS. FOELAK:

10 Q And your vehicle is -- doesn't advertise your
11 presence.

12 A It's a four-door sedan, unmarked, carries Maryland
13 license plates.

14 Q No unusual antennas visible?

15 A No.

16 Q There was some discussion of the one-minute test
17 set-up and the fact that it had to be recreated and was
18 recreated as one minute. During your monitoring before the
19 inspection, had you taken note of the time duration of the
20 tone testing and how often it had -- it occurred -- repeated?

21 A Yes, there were notes to that effect. It appeared
22 to be -- in reviewing my notes, I see that I had made
23 reference to the fact it appeared to be once a minute.

24 Q When you arrived to commence the inspection and
25 encountered Mr. Stone, what did you tell him that you were

1 there to inspect?

2 A Private carrier paging.

3 Q There was some discussion as to the various knobs
4 and circuits and so on of the busy monitor. If the busy
5 monitor had been effectively working, would you have noted the
6 instances of Capitol coming up while RAM was on the air that
7 you did?

8 MR. HARDMAN: I object to the question, Your Honor.
9 That's contrary to the witness' testimony. He testified, you
10 know, three or four or five times that as far as he could
11 tell, the monitor was working and he also testified that he
12 never was able to explain the instances of the transmissions
13 referred to.

14 MS. FOELAK: I'm asking -- Your Honor, I'm asking
15 him as to the results that he heard on the air, the
16 transmissions that went on, not how it was -- you know, what
17 the electrical connections or nonconnections occurred that
18 allowed this to happen.

19 MR. HARDMAN: Your Honor, she's impeaching her own
20 witness. He has clearly testified on both of those points and
21 she is now trying to get him to contradict him.

22 JUDGE CHACHKIN: Well, she can do that if she wants
23 to, impeach her own witness.

24 MS. FOELAK: I don't believe I'm trying to get him
25 to contradict himself. I'm merely asking whether you observed

1 instances of Capitol coming on the air while RAM was on the
2 air.

3 MR. HARDMAN: And that she asked five minutes ago.

4 JUDGE CHACHKIN: And he testified he did, I believe,
5 testified to that.

6 BY MS. FOELAK:

7 Q Just one final point. There was some discussion of
8 PRB Exhibit Five which is the pages of customer lists. Were
9 these pages given to you by someone from Capitol or someones
10 from Capitol, since they're different pages?

11 A The various pages here were provided from -- by
12 people from Capitol.

13 MS. FOELAK: That's all I have.

14 JUDGE CHACHKIN: Now, do you have any objection to
15 --

16 MR. JOYCE: Your Honor, I have some redirect here.
17 Five minutes tops.

18 JUDGE CHACHKIN: All right. I'll permit it. I do
19 have some problem with the procedure, but go ahead.

20 REDIRECT EXAMINATION

21 BY MR. JOYCE:

22 Q On that -- while we're on that document, Mr. Walker,
23 this was presented to you as a customer list. Is that
24 correct?

25 A Yes.